

IN THE SUPREME COURT OF THE STATE OF DELAWARE

TIMOTHY E. JACKSON,	§	
	§	No. 36, 2011
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 1008021540
Appellee.	§	

Submitted: July 26, 2011

Decided: October 20, 2011

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices.

O R D E R

This 20th day of October 2011, upon consideration of the appellant’s opening brief and the appellee’s motion to affirm, it appears to the Court that:

(1) On September 9, 2010, the appellant, Timothy E. Jackson, pled guilty to Possession of a Controlled Substance within 1000 Feet of a School (“PCS within 1000 Feet of a School”) and Resisting Arrest. For PCS within 1000 Feet of a School, Jackson was sentenced to five years at Level V suspended for one year at Level II probation. For Resisting Arrest, he was

sentenced to one year at Level V suspended for one year at Level II probation.

(2) On November 29, 2010, Jackson was charged with violation of probation (VOP) for having not reported in person to his probation officer and for not reporting his November 7, 2010 arrest.¹ At the January 12, 2011 VOP hearing that followed, Jackson, through counsel, admitted the VOP.

(3) For PCS within 1000 Feet of a School, the Superior Court sentenced Jackson to five years at Level V suspended after completion of a drug treatment program for eighteen months at Level IV Crest followed by one year at Level III Crest Aftercare. For Resisting Arrest, the Superior Court discharged Jackson as unimproved. This appeal followed.

(4) On appeal, Jackson expresses dissatisfaction with his VOP sentence, and he asks that this Court vacate the sentence and remand for resentencing “in front of a different judge.” Nonetheless, having reviewed the transcript of the VOP hearing, the Court can discern no support for Jackson’s claim that he was sentenced on the basis of impermissible factual predicates, judicial vindictiveness, bias, close mindedness, or any other illegality.²

¹ It appears from the record that Jackson was arrested on November 7, 2010 on charges of Receiving Stolen Property and Conspiracy.

² *Siple v. State*, 701 A.2d 79, 83 (Del. 1997).

(5) The hearing transcript reflects that the Superior Court judge listened to Jackson's explanation of the admitted VOP as well as the probation officer's recommendation of sentence. In the end, the Superior Court imposed a sentence that was based on relevant factors, within statutory limits, and did not exceed the sentence originally imposed on September 9, 2010.

(6) Appellate review of a VOP sentence is limited to whether a sentence has exceeded statutory limits.³ “[O]nce a defendant violates the terms of [] probation, the Superior Court has the authority to require a defendant to serve the sentence imposed, or any lesser sentence.”⁴

NOW, THEREFORE IT IS HEREBY ORDERED that the motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Henry duPont Ridgely
Justice

³ *Mayes v. State*, 604 A.2d 839, 842 (Del. 1992).

⁴ *State v. Sloman*, 886 A.2d 1257, 1260 (Del. 2005) (citing 11 Del. C. § 4334(c)).